

City of Chicago
Department of Public Health
Control and Mitigation of Lead Bearing Substances

The Commissioner of the Chicago Department of Public Health hereby promulgates the following rules and regulations pursuant to the Municipal Code of the City of Chicago, Chapter 7-4-130 and all other chapters, sections, or subsections which provide that the Commissioner of the Chicago Department of Public Health (the Department) may promulgate rules and regulations concerning lead hazards and/or lead-bearing substances.

1. **Definitions:**
 - a. Child care facility: Any structure used by a child care provider, school, or other facility frequented by children.
 - b. Children: Any persons six years of age and younger.
 - c. Clearance test: An inspection performed by an Illinois licensed lead risk assessor following the completion of lead mitigation or lead abatement activities. A clearance test will pass when mitigation or abatement work identified in the mitigation plan has been determined by the risk assessor to be satisfactorily completed, quantitative dust samples taken from the work area by the risk assessor are found to have a lead load below the levels defined as a lead hazard, and no additional lead hazards are identified by the risk assessor.
 - d. Dwelling: Any structure all or part of which is designed or used for human habitation.
 - e. Lead abatement: The removal of a lead hazard by component replacement, complete paint removal, enclosure system, or encapsulation, as defined in the Illinois Administrative Code at 77 Ill. Admin. Code 845.30 Mitigation or Abatement of Lead Hazards, such that all lead paint and resulting hazards are removed or completely inaccessible for a period expected to be at least twenty (20) years.
 - f. Lead bearing substance: Lead paint, or any object or substance that could create a lead hazard.
 - g. Lead hazard: The presence of one or more of the following on, in, or around a regulated facility:
 1. Chipping, peeling, chalking, flaking, loose, or delaminating lead paint (i.e., any paint condition that could result in lead containing material to be released to the air, surrounding surfaces, or upon touch);
 2. Lead paint on any surface mouthable or chewable by a child (such as a window stool, crib or door casing) with evidence of teeth marks, or;

3. Uncorrected water damage or evidence of uncorrected water damage to a surface coated with lead paint regardless of paint condition or;
 4. Lead paint on a surface subject to abrasion, friction, or impacts during normal use, regardless of paint condition when such condition is likely to become hazardous, including but not limited to, window and door components and stair treads or;
 5. Any interior or exterior floor with forty (40) or more micrograms of lead per square foot or any other interior horizontal surface with two hundred (200) or more micrograms of lead per square foot or;
 6. Any visible dust, chips, or debris associated with the damage of lead paint or a surface coated with lead paint, including such debris or dust produced in the course of repair, renovation, or remodeling unless properly contained and removed in a manner to prevent contamination of the surrounding area or;
 7. Any object or substance containing greater than one-half of one percent (0.5%) lead by weight that could potentially be ingested or inhaled or which could produce lead dust or;
 8. Soil containing more than one thousand (1000) micrograms of lead per gram of soil that is accessible (i.e., not consistently covered by grass, mulch, or an impervious barrier) or;
 9. Drinking water containing more than fifteen (15) micrograms of lead per liter after having been flushed for at least one minute.
- h. Lead mitigation: Actions taken to address lead hazards which do not meet the definition of Lead Abatement, including paint stabilization.
 - i. Lead paint: Any paint or other surface coating that contains greater than one (1) milligram of lead per square centimeter in the dried film of paint or other surface coating or one-half of one percent (0.5%) lead by weight in the total nonvolatile content of liquid paint or surface coating.
 - j. Owner: Any person or persons, natural or legal, who holds legal title to, collects rent from, manages, or is in possession and control of a regulated facility, including any beneficiaries of a land trust.
 - k. Regulated facility: Any dwelling, dwelling unit, residential building, child care facility, school, playground, park, recreational area, or area regularly frequented by children, including the premises and any associated structures of such facilities.
2. These rules and regulations shall apply to any person, natural or legal, who:
 - a. Is the owner of a regulated facility where lead paint exists or has existed and/or who,
 - b. Is responsible for and/or participates in:
 1. The mitigation and/or abatement of lead hazards in a regulated facility, or
 2. The temporary, permanent, partial, or complete removal of lead bearing substances from a regulated facility.

3. All regulated facilities in the City of Chicago shall be maintained so that they are free of lead hazards as defined by these rules.
4. Only licensed lead risk assessors who are employees or agents of the Department, as authorized by its Commissioner, can make determinations as to whether any regulated facility is classifiable as free from lead hazards or lead bearing substances in accordance with these rules.
5. Use of any of the following methods in disturbing lead paint will create the presumption of a lead hazard and is therefore prohibited:
 - a. Open flame burning or use of a heat gun;
 - b. Dry-sanding;
 - c. Dry-scraping;
 - d. Mechanical paint removal equipment including mechanical sanders, unless such devices have complete dust containment and utilize a HEPA filtering system;
 - e. Uncontained abrasive or hydro blasting;
 - i. Abrasive and hydro blasting may only be performed when completely contained such that all dust and debris cannot escape containment and the containment area is exhausted through a HEPA filtering system;
 - f. Chemical paint stripping with any substance that includes methylene chloride (dichloromethane) or n-hexane.
6. Any person who directly supervises, participates in, and/or authorizes abatement and/or mitigation of a lead hazard and/or temporary, permanent, partial, or complete removal of a leadbearing substance, including the owner, must comply or cause compliance with all of the following:
 - a. Submit to the Department a Mitigation plan in accordance with section 7 of these rules and receive official approval from the Department prior to beginning abatement or mitigation activities and,
 - b. Conduct the abatement or mitigation work in accordance with the approved mitigation plan, and,
 - c. Ensure that individuals conducting the work are lead workers, lead contractors/supervisors, and/or lead abatement contractors who are licensed by the State of Illinois pursuant to section 11.1 of the Lead Poisoning Prevention Act (410 ILCS 45/11.1) unless a waiver of this requirement has been granted by the Chicago Department of Public Health and the individuals conducting the work have received training in lead safe work practices from a Chicago Department of Public Health approved training provider prior to beginning any abatement, mitigation, or removal activity
7. Mitigation plans must be submitted to the Department and will be approved only if all of the following requirements are met:

- a. The plan, following example formats available from the Department upon request, adequately and completely details where the mitigation is to occur (including street address, unit number, and owner's name, address, and phone number), the work to be performed, how the work is to be performed, the containment and clean-up measures to be utilized, if occupant relocation is required, the clearance testing to be performed, and the names and qualifications of the persons who will perform the work.
- b. The plan includes the ongoing or continual maintenance required to maintain the dwelling unit free from lead hazards after completion of the work.
- c. A copy of the lead paint inspection or risk assessment conducted for that unit is included if the inspection or assessment was not performed by the Department.

8. The Department may require modifications to the Mitigation plan, including but not limited to changes in the methods utilized, prior to approval when such requirements are necessary in the Department's opinion to protect present or future occupants and/or workers from exposure to lead or the creation of additional lead hazards, or when such changes are necessary to comply with these rules or other applicable State of Illinois or Federal laws and regulations.

9. When Mitigation plans specify ongoing or continual maintenance to be performed in order to maintain the dwelling unit or any part thereof free of lead hazards, it shall be the responsibility of the owner to comply with all of the following:

- a. Perform or have performed all such maintenance as necessary to prevent the occurrence of lead hazards; and
- b. Perform or have performed all such maintenance as is specified in the Mitigation plan; and
- c. Within one year from the date of the passing clearance test, and on an annual basis thereafter, submit to the Department a revised Mitigation plan, including a statement regarding compliance with on-going or continual maintenance activities.

10. Failure of an owner to comply with any provision of section 9 will constitute failure to comply with the Mitigation plan and constitute the presumption that a lead hazard exists in the dwelling.

11. In accordance with Chicago Municipal Code Section 4(7-4-080), the following fee structure has been established by the Department to cover the cost of providing inspections and plan review and will be collected from persons subject to this regulation:

- a. The cost of a lead risk assessment shall be four hundred and fifty dollars (\$450) per dwelling unit
- b. The cost of a clearance test shall be one hundred and fifty dollars (\$150) per dwelling unit, but shall be waived on the first clearance inspection needed for a unit if the risk assessment was performed by the Department

- (if the first clearance fails, the fee shall be charged for subsequent re-inspections)
- c. The cost of reviewing and approving mitigation plans shall be twenty five dollars (\$25), but shall be waived a single time if the risk assessment was performed by the Department
12. The fee structure established by section 11 may be modified under one or more of the following circumstances:
- a. All fees will be waived if the inspection was initiated by the Department (i.e., the inspection was not performed at the owner's request) AND no lead hazards were identified;
 - b. All fees will be waived for all units in an owner-occupied building if said owner provides sufficient evidence that his or her family income is less than 80% of the median Family Adjusted Income for Chicago as published by the United States Department of Housing and Urban Development;
 - c. All fees will be waived when incurred in the process of conducting a lead mitigation or abatement project financed or assisted by a grant or loan program administered in whole or in part by the Department;
 - d. A fee waiver or reduction in fees was authorized by the Department Commissioner or his or her designee when such waiver or reduction will either improve the public health or when requested by a non-profit or governmental program whose purpose is to abate or mitigate lead hazards.
13. Any person who is required to abide by any provision of these rules and regulations but fails to do so for any reason shall, in accordance with Chicago Municipal Code 4(7-4-120), be subject to a fine not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) and/or incarceration not to exceed six (6) months for each violation of these rules and regulations that she or he commits, provided that each day that such a violation or noncompliance exists shall be considered a separate offense.
14. In addition to any other penalty or remedy imposed under these rules and regulations, if any person performing work under any contract with the City of Chicago is found liable for violating any provision of these rules and regulations, the City may terminate said contract by giving written notice of termination to said person. The contract shall be null and void upon delivery of such notice.

By my signature, the above rules and regulations are hereby formally promulgated, adopted and established under the authority granted the Commissioner of the Chicago Department of Public Health.

Signed:

John L. Wilhelm, M.D., MPH
Commissioner
Chicago Department of Public Health

Dated: May 19, 2004